

A091 (Rev. 8/01) Criminal Complaint

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

United States Courts
Southern District of Texas
FILED

JUL 23 2019

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

V.

Dennis Xavier ZELAYA

CRIMINAL COMPLAINT

Case Number:

2:19mj 2820

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 7/22/2019 in Kenedy County, in the

(Date)

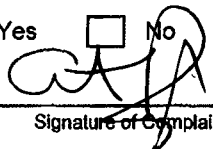
Southern District of Texas defendant(s) **Dennis Xavier ZELAYA**

did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

In violation of Title 8 United States Code, Section(s) 1324
I further state that I am a(n) Special Agent and that this complaint is based on the following facts:
Official Title

See Attached Affidavit of HSI Special Agent **Arturo Rocha, Jr.**

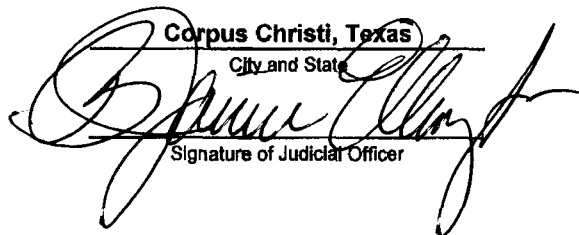
Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Signature of Complainant
Arturo Rocha, Jr.
Printed Name of Complainant

Sworn to before me and signed in my presence,
and probable cause found on:

July 23, 2019
Date
B. Janice Ellington, U.S. Magistrate Judge
Name and Title of Judicial Officer

at

Corpus Christi, Texas
City and State

Signature of Judicial Officer

AFFIDAVIT

PROBABLE CAUSE:

On July 22, 2019, at approximately 5:25 am, Border Patrol Agent (BPA) Eufracio Perez was working primary inspection duties at the Javier Vega Jr. United States Border Patrol Checkpoint near Sarita, Texas. Assisting BPA E. Perez was BPA Michael Perez and his canine partner Bruno.

A white, 2001 International (tanker style) fuel truck driven by Dennis Xavier ZELAYA (ZELAYA) came to a stop and BPA E. Perez asked ZELAYA if he was a United States citizen to which he replied he was. BPA E. Perez noticed ZELAYA answered in a shaky voice and appeared nervous. When asked, ZELAYA responded he did not know where he was headed and did not know who the owner of the fuel truck was. ZELAYA claimed he had been working with the company for six months and had gotten a call to pick up the fuel truck in the (Rio Grande) Valley and take it to some unknown place in Corpus Christi, Texas. BPA M. Perez advised that canine Bruno had alerted to the rear of the fuel truck.

At secondary inspection, canine Bruno again alerted to the rear of the fuel truck. BPA M. Perez climbed to the top of the fuel truck, opened one of three hatches and observed a window air conditioning unit. He then attempted to open the second hatch but felt someone pull the hatch down. Once BPA M. Perez was able to open the hatch, he observed numerous people.

BPA Miguel Cariaga helped remove 21 people from inside the fuel truck and determined they were all illegally present in the U.S. ZELAYA and the 21 illegal aliens were arrested.

PRINCIPAL MIRANDA WARNING AND STATEMENTS: Dennis Xavier ZELAYA

The following statements are summarized, for a complete statement refer to the Border Patrol event report.

ZELAYA was read his Miranda Warnings by BPA E. Perez. ZELAYA indicated he understood his rights and elected to waive them. ZELAYA admitted he knew he was transporting illegal aliens but did not know exactly how many. ZELAYA indicated he was to be paid \$15,000 by an unknown man he met in Houston, Texas.

ZELAYA voluntarily provided a video statement to Intelligence BPAs Ernesto Reyna and Alejandro Benavides. ZELAYA provided additional details of the smuggling arrangements.

MATERIAL WITNESS VIDEO STATEMENTS:

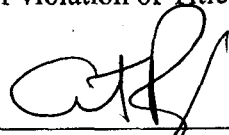
The following statements are summarized, for a complete statement refer to the Border Patrol event report. BPAs informed all 21 illegal aliens of their rights and interviewed them. No alien claimed to have seen ZELAYA while being loaded into the fuel truck. No exculpatory statements were given.

MATERIAL WITNESS: Dunia Yamileth Gomez-Gomez stated she is a citizen of Honduras and last entered the United States on July 11, 2019 by illegally crossing the Rio Grande river near

Hidalgo, Texas. She stated that after crossing the river she and the rest of the group were taken to a warehouse where she remained for about 8 days. She said she was later moved to another house with an unknown female and remained there for about 2 days. She indicated the fuel truck arrived at a remote location where she was staging and that it parked near some brush that was a short distance from the property. She stated the unknown female instructed the group on how to load into the fuel truck. She admitted she was afraid of being inside the fuel truck as it was dark and hot. She said she and the others were given water bottles. She does not believe she would be able to get out of the fuel truck in case of an emergency. She claimed she has not yet paid anyone, but her destination was Maryland.

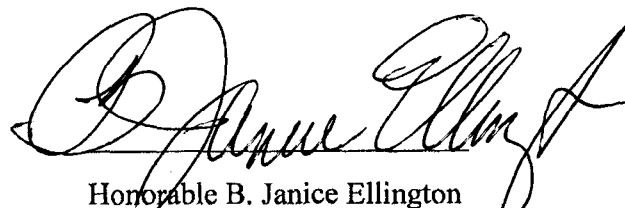
MATERIAL WITNESS: Uri Enoc AQUINO-Medina stated he is a citizen of El Salvador. He claims to have illegally crossed the Rio Grande River near Hidalgo, Texas on July 19, 2019 at about 11:30 pm and walked for about five minutes with about 20 other people until they reached a house they stayed at for a couple of hours. He stated he was taken to two different houses before being placed inside the fuel truck. He said that at the second house there were a total of nine individuals and there was no caretaker while at the house. He indicated that he along with four other individuals were later picked up by a female and taken the house where they were eventually loaded into the fuel truck by the same female. He stated he sat at the back of the fuel truck and felt air come in from the hatches on top. He said they travelled for two hours with no food but did have water that was passed out to everyone. He stated he was afraid of dying inside the fuel truck with no way to get out in case of an emergency. He admitted he paid money in El Salvador to get smuggled into the United States and his destination would be Chicago.

AUSA Lance Watt was notified and explained the facts of the case and accepted prosecution against Dennis Xavier ZELAYA for violation of Title 8 USC, Section 1324, Alien Smuggling.



Arturo Rocha, Jr., Special Agent
Homeland Security Investigations

SWORN AND SUBSCRIBED before me on this 23th of June 2019.



Honorable B. Janice Ellington
United States Magistrate Judge